UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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HEDAYA HOME FASHIONS INC., :
Plaintiff, :
vs. :
PACIFIC COAST HOME FURNISHINGS, :
Defendant. :
-- x

Civil Action No.:

COMPLAINT

Jury Demand

Plaintiff Hedaya Home Fashions Inc. ("Plaintiff" or "Hedaya"), by and through its undersigned counsel, for its Complaint against defendant Pacific Coast Home Furnishings ("Pacific Coast" or "Defendant"), hereby alleges as follows.

STATEMENT OF THE CASE

1. This is an action for damages and injunctive relief arising from Defendant's willful infringement of the registered copyright for a paisley pattern print and the unregistered copyright for a striped pattern print held by Plaintiff.

PARTIES

2. Plaintiff Hedaya is a corporation organized and existing under the laws of the State of New York, having an office and principal place of business at 1111 Jefferson Ave, Elizabeth, NJ 07201 and an office at 295 5th Avenue, Suite #1503, New York, NY 10016.

3. Upon information and belief, Defendant Pacific Coast is a corporation organized and existing under the laws of the State of California, having an office and principal place of business at 2424 Saybrook Avenue, Los Angeles, CA 90040 and an office at 230 5th Avenue, Suite #1511, New York, NY 10001.

JURISDICTION AND VENUE

4. Based on the foregoing, personal jurisdiction may be exercised over Defendant pursuant to CPLR § 302(a)(1) as Defendant has, in person or through an agent, contracted anywhere to supply goods or services in New York State, and the cause of action arises from such acts.

5. Moreover, personal jurisdiction may be exercised over Defendant as Defendant has committed a tortious act within New York State, within the meaning of CPLR § 302(a)(2), since the Infringing Product, as hereinafter defined, has been offered for sale in this State.

6. This Court has jurisdiction over this action pursuant to 28 U.S.C. §§ 1331, 1332, and 1338.

7. Venue is proper pursuant to 28 U.S.C. §§ 1391 and 1400(a).

FACTS

8. Hedaya is engaged in the business of designing, manufacturing, and selling a wide variety of bed, bath, and kitchen soft home products with original and distinctive designs. Hedaya has been in the business for over forty-five (45) years and has earned a well-deserved and enviable reputation in the trade for providing unique and original designs on products of high quality. Hedaya sells its products within this judicial district and throughout the United States of America.

9. Many of the designs created by Hedaya are proprietary and are protected under the intellectual property laws of the United States, including copyright laws.

10. Among the proprietary designs created by Hedaya is HHF-3319 (the "HHF-3319 Design"). A photocopy showing a representation of Hedaya's HHF-3319 Design is attached as Exhibit A.

11. The HHF-3319 Design is the subject of U.S. Copyright Registration No. VA 1-880-074 (the "'074 Registration"), which is effective as of July 1, 2013 and is valid and subsisting. A copy of the '074 Registration Certificate is attached as Exhibit B.

12. Another proprietary design created by Hedaya is HHF-2723 (the "HHF-2723 Design"). A photocopy showing a representation of Hedaya's HHF-2723 Design is attached as Exhibit C.

13. The HHF-3319 Design and the HHF-2723 Design are both used in Hedaya's Jillian quilt (the "Jillian Quilt"). A photocopy showing a representation of Hedaya's Jillian Quilt is attached as Exhibit D.

14. The Jillian Quilt, and the underlying HHF-3319 Design and HHF-2723 Design, was designed in 2013 by an employee of Hedaya in the scope of their employment as work for hire. Said designs contain material which is wholly original and is copyrightable subject matter under the laws of the United States.

15. Hedaya is, and for all times relevant hereto has been, the sole proprietor of all right, title, and interest in and to the copyright in the HHF-3319 Design, the '074 Registration, the HHF-2723 Design, and the Jillian Quilt.

16. Hedaya has manufactured and offered for sale or sold the Jillian Quilt since at least as early as 2013. Since that time, Hedaya has sold substantial quantities of the Jillian Quilt to retailer customers throughout the United States.

Infringing Activities

17. Years after Hedaya's creation and sale of the Jillian Quilt, Hedaya representatives found substantially similar copies of the Jillian Quilt (the "Infringing Product") on the Bed Bath & Beyond website. A photocopy showing a photograph of Pacific Coast's Infringing Product is attached as Exhibit E.

18. On January 9, 2017, after learning of the wrongful activities of Defendant, Hedaya sent a copyright notice letter to Defendant. The letter demanded that the Infringing Product be withdrawn from sale. A copy of the letter is attached as Exhibit F.

19. Several correspondences seeking to resolve the dispute on an agreed upon basis were subsequently exchanged with Defendant, but a resolution of Hedaya's claim has not been reached.

20. Although Defendant claims that it has ceased any further sale of the Infringing Product, as of the filing of this Complaint, the Infringing Product is still available for sale on, *inter alia*, the Bed Bath & Beyond website and shipped directly from Defendant. A copy of the webpage showing the Infringing Product being offered for sale on the Bed Bath & Beyond website is attached as Exhibit G.

COUNT I - COPYRIGHT INFRINGEMENT

21. Hedaya repeats and realleges the allegations contained in paragraphs 1 through 20 as though fully set forth herein.

22. This claim arises under the copyright laws of the United States, 17 U.S.C. §101 et seq.

23. Based on the substantial similarity of the Infringing Product to the Jillian Quilt, it is apparent that Defendant copied the Jillian Quilt.

24. The copying, importing, offering for sale, and selling of the Infringing Product by Defendant was and is without the permission, license, or consent of Hedaya.

25. Defendant's acts alleged herein constitute violations of the exclusive rights of Hedaya under 17 U.S.C. §§ 106, 113, and 602, and constitute infringement under 17 U.S.C. § 501.

26. Upon information and belief, Defendant knew or should have known that the design was proprietary and therefore its infringement was knowing and willful.

27. To the extent Defendant's infringement was not knowing and willful, Defendant's continued infringement of Hedaya's copyright after receipt of the notice letter (*see* Exhibit D) demonstrates that the infringement was not innocent and was in fact knowing and willful. *See* Exhibit G.

28. Hedaya has suffered and will continue to suffer damage to its business, including loss of its reputation for exclusivity for goods which includes its Jillian Quilt, loss of its reputation for unique and original products of high quality, and loss of sales.

29. Defendant's continuing acts of copyright infringement are damaging to Hedaya in a manner for which Hedaya has no adequate remedy at law and Hedaya is suffering irreparable harm as a result of the acts of Defendant.

WHEREFORE, Plaintiff Hedaya requests judgment against Defendant as follows:

A. Defendant and its officers, agents, servants, employees and attorneys and all those in active concert and participation with them shall be preliminarily and permanently enjoined from:

i. manufacturing, reproducing, displaying, publishing, vending, distributing, selling, promoting, importing, and/or advertising, assisting, inducing, or contributing to the manufacturing, reproducing, displaying, publishing, vending, distributing, selling, promoting, and/or advertising any product that is substantially similar to the Jillian Quilt, including without limitation the Infringing Product; and

ii. otherwise infringing the copyrights in the Jillian Quilt, including but not limited to the copyright represented by the HHF-3319 Design, '074 Registration, and the HHF-2723 Design.

B. During the pendency of this lawsuit, Defendant shall be required to deliver to Hedaya for storage or destruction all copies of the Infringing Product.

C. Defendant shall be required to pay to Hedaya such actual damages as Hedaya sustained in consequence of the infringement by Defendant of the copyright in the Jillian Quilt and to account to Hedaya for any additional profits of the infringement, or to pay to Hedaya statutory damages pursuant to 17 U.S.C. § 504, which shall be enhanced in view of the willful nature of the infringement.

D. That Hedaya have a recovery from Defendant of the costs of this action and Hedaya's reasonable counsel fees pursuant to 17 U.S.C. § 505.

E. Hedaya be granted such other and further relief as the Court may deem just and proper.

JURY DEMAND

Pursuant to Fed. R. Civ. P. 38(b), Plaintiff Hedaya hereby demands trial by jury on all claims triable by right of jury in this action.

Dated: New York, New York
March 31, 2017

By: */s/* Chester Rothstein

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